IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.1039 OF 2003
IN
SUMMARY SUIT NO.2616 OF 2003

Asian Metal and Wire Industries .. Plaintiffs

Vs.

M/s.Ratan Electrical Industries ..Defendants

Ms.Kalpana Trivedi for the plaintiffs

Mr.G.S.Bhatt for the defendants

CORAM : S.U.KAMDAR, J
DATED : 12TH SEPTEMBER, 2005

P.C.:

1. The learned counsel for the plaintiffs has tendered a draft amendment for correction of the name of the defendants. Leave to amend. Amendment to be carried out within a period of one week from today.

2. The suit is filed on goods sold and delivered and interest outstanding thereon. The defence raised in the present suit is that the suit is on account and the goods are found defective. I do not find any merits in the defence raised. Suit

is in respect of goods sold and delivered and after giving due credit the balance amount is claimed. Thus, the suit is based on contract evidenced by the invoices and delivery challans. In so far as the defence that the gods are found defective is concerned, it is admitted position that goods are consumed and not returned. In that view of the matter, there is no substance in the said defence also. However, with a view to give an opportunity to the defendants to defend the suit, I direct the defendants to deposit a sum of Rs.1,00,000/-within 4 weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to

be on board of the learned Judge taking Commercial Causes.